

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED
AUG - 4 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Cellular Service and Other Commercial Mobile)
Radio Services in the Gulf of Mexico)
)
Amendment of Part 22 of the Commission's)
Rules to Provide for Filing and Processing of)
Applications for Unserved Areas in the Cellular)
Service and to Modify Other Cellular Rules)

WT Docket No. 97-112

CC Docket No. 90-6

REPLY COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation and its telephone
and wireless companies

Andre J. Lachance
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5276

August 4, 1997

Their Attorney

No. of Copies rec'd
List ABCDE

024

TABLE OF CONTENTS

	<u>PAGE</u>
Summary	iii
I. Initial Comments	2
II. GTE's Proposal Is Consistent With the Public Interest and the Majority of Commenters	3
A. Other Commenters Support Extending Land-Based Cellular Markets Into the Gulf Rather than Creating a Coastal Zone	3
B. The Current and Proposed Gulf Rules Hinder Cellular Providers Ability to Provide Reliable Beach Coverage.....	4
C. Boaters in Gulf Waters Share a Community of Interest With CMRS Customers in Adjacent Land Markets	7
D. Regulatory Parity Demands that the FCC Extend Land-Based Cellular Markets Into the Gulf.....	8
E. Parties Addressing the Merits of the Exclusive Zone Boundary Agree that the Boundary Should Be Set Further From the Shoreline	10
F. GTE's Proposal Regarding the Treatment of Incumbents Is Consistent with the Interests of Other Cellular Providers.....	12
III. The Gulf-Based Carrier Proposals Would Exacerbate the Current Gulf Problems and Would Be Contrary to the Public Interest	13
A. Land-Based Transmitters Should Not Be Allowed Unless, at Minimum, the Service Area Boundary Extension Rules Are Met	14
B. The Gulf-Based Cellular Provider Proposals Would Not Serve the Public Interest	17
IV. Conclusion	20

SUMMARY

In its initial comments GTE set forth a proposal for cellular licensing and operations in the Gulf of Mexico that was markedly different from the FCC's proposal. In particular, GTE opposed the FCC's Coastal Zone proposal and recommended that the Commission extend the license area of land-based cellular providers 25 miles into the Gulf, 50 miles in Florida. GTE now provides further evidence that its proposal better serves the public interest. In addition, GTE shows how the issues identified by most other commenters would best be resolved under GTE's proposed solution.

Three other parties urged the FCC to abandon its Coastal Zone proposal in favor of extending the market area of land-based cellular licensees. Several commenters also echo GTE's concerns that the FCC's proposal for the Gulf of Mexico did not adequately consider cellular providers' ability to provide reliable service on and near Gulf beaches and did not recognize that Gulf boating traffic shares a community of interest with in-land boating and on-land cellular customers. In addition, noting that PCS providers believe that their licenses entitle them to provide service to county or parish line boundaries, a number of commenters join GTE in urging the FCC to give cellular providers the same opportunity as PCS licensees to serve the Gulf.

Other than GTE, only two parties addressed the merits of where the FCC should draw the boundary between the Gulf carriers' exclusive territory and the coastal waters. Like GTE, the evidence submitted by these parties supports drawing the boundary more than 12 miles from the Gulf shore.

Although at first glance, it appears as though most parties' comments on the issue of treatment of incumbents conflict with GTE's proposal to clear incumbents out of coastal Gulf waters, on closer inspection, GTE's proposal to allow land-based providers to serve the entire coastal area is consistent with the interests these parties are seeking to protect.

The comments submitted by the current Gulf-based cellular providers stand apart from the majority of interested parties in this proceeding. These parties' proposals that land-based transmitters be allowed without consent and without satisfying the service area boundary ("SAB") extension rules must be rejected. The SAB extension rules are necessary to provide protection from both capture of subscriber traffic and from harmful interference.

The Gulf carrier proposals to maintain the status quo, at least temporarily, in coastal waters must also be rejected. These proposals would continue in effect the spotty beach and coastal water coverage that exists today and ignore the public interest.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Cellular Service and Other Commercial Mobile)	WT Docket No. 97-112
Radio Services in the Gulf of Mexico)	
)	
Amendment of Part 22 of the Commission's)	CC Docket No. 90-6
Rules to Provide for Filing and Processing of)	
Applications for Unserved Areas in the Cellular)	
Service and to Modify Other Cellular Rules)	

REPLY COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation on behalf of its telephone and wireless subsidiaries ("GTE") hereby submits its reply comments in response to the *Second Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ In the *Second NPRM*, the Federal Communications Commission ("FCC" or "Commission") proposes to adopt rules governing cellular licensing and operations in the Gulf of Mexico Service Area ("GMSA"). The Commission also seeks comment on what licensing and operational rules to adopt for other commercial mobile radio services ("CMRS") providers in the Gulf of Mexico.

¹ Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, WT Docket No. 97-112, Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Second Notice of Proposed Rulemaking*, FCC 97-110 (released April 16, 1997) (hereinafter "*Second NPRM*").

I. Initial Comments

In its initial comments, GTE set forth a proposal for cellular licensing and operations in the Gulf of Mexico that was markedly different from the FCC's proposal. In particular, GTE opposed the FCC's Coastal Zone proposal and recommended that the Commission extend the license area of land-based cellular providers 25 miles into the Gulf, 50 miles in Florida. GTE pointed out that this proposal offered several advantages over the FCC's Gulf solution. First, GTE's proposal would serve the public interest by enabling land-based cellular providers to offer reliable service on and near the beach and in water-front buildings. This issue was not addressed in the FCC's proposal. Second, GTE's proposal would improve upon the FCC's proposal by recognizing that boating customers in the Gulf share a community of interest with land-based cellular customers. These customers not only want reliable cellular coverage, but also want affordable cellular coverage that is portable between land and water locations. Third, GTE's proposal addressed the issue of regulatory parity. Unlike the FCC's proposal, which would likely confer a competitive advantage on broadband PCS and other CMRS providers, GTE's proposal would put cellular carriers on roughly equal footing. Fourth, unlike most commenters, GTE's proposal addressed the issue of how far into the Gulf the FCC should draw the boundary between exclusive Gulf carrier territory and territory with a need for reliable cellular coverage. GTE provided evidence that the boundary should be drawn at least 25 miles from shore, 50 miles for Florida below the Panhandle. Fifth, GTE's proposal would eliminate many of the thorny issues the FCC is struggling with in the instant proceeding. In particular, GTE's proposal would obviate the land-based transmitter and pending application issues.

In these reply comments, GTE provides further evidence that its proposal better serves the public interest. In addition, GTE shows how the issues identified by most other commenters would best be resolved under GTE's proposed solution. Finally, GTE demonstrates how the proposals of the current Gulf-based carriers are contrary to the public interest.

II. GTE's Proposal Is Consistent With the Public Interest and the Majority of Commenters

As noted above, in the opening round of comments, GTE demonstrated how the public interest would be better served by abandoning the "Coastal Zone" concept in favor of extending land-based cellular markets 25 or 50 miles into the Gulf. Customer information obtained by GTE and the comments of the majority of entities addressing the specifics of the proposed cellular rules provide additional support for GTE's proposal. Indeed, several parties recommended changes to the FCC's proposal similar to those set forth by GTE.

A. Other Commenters Support Extending Land-Based Cellular Markets Into the Gulf Rather than Creating a Coastal Zone

Three other parties urged the FCC to abandon its Coastal Zone proposal in favor of extending the market area of land-based cellular licensees. BellSouth argues that land-based cellular market boundaries should be extended into the Gulf. It argues that such action is necessary to ensure regulatory parity with PCS providers, to provide seamless cellular service, and to avoid mass confusion.² Likewise, AT&T Wireless asks that cellular license areas be extended into the Gulf. It contends that land-based

² BellSouth Comments at 4-11.

carriers are best able to provide reliable service into the Gulf. AT&T also notes that extending land-based markets would be consistent with the Commission's treatment of cellular coverage into other water areas and with the market areas created for wireless communications service ("WCS").³ MobilTel also supports extension of land-based cellular licenses. It states that extending existing licenses is much simpler than creating a new market area with a new set of licensees. It also argues that land-based cellular providers are better positioned than water-based carriers to provide service to adjacent Gulf waters.⁴

B. The Current and Proposed Gulf Rules Hinder Cellular Providers' Ability to Provide Reliable Beach Coverage

GTE argued in its comments that the FCC's proposal for the Gulf of Mexico did not adequately consider cellular providers' inability under the current rules to provide reliable service on and near Gulf beaches. Several commenters echo GTE's concerns in this regard. Southwestern Bell Mobile Systems ("SBMS"), for example, argues that the current Gulf rules effectively prohibit land-based carriers from extending coverage into the Gulf. Moreover, because land-based providers must attenuate power levels to avoid coverage into the Gulf, they do not have sufficient power to meet the needs of the public on the land. Indeed, SBMS indicates that often, land-based cellular calls set-up on the "powered-up sites of GMSA carriers" causing customers to incur roaming charges in the home market.⁵

³ AT&T Wireless Comments at 4-6.

⁴ MobilTel Comments at 2-4.

⁵ SBMS Comments at 3-4.

Radiofone adds that "[s]ince the court's decision in *Petroleum Communications, Inc. v. FCC*, 22 F.3d 1164 [*PetroCom v. FCC*], licensing of cell sites with even minimal contour extensions into the Gulf have been on hold. This has resulted in the inability of coastal land-based licensees to improve their service to the substantial segment of subscribers using their cellular telephones in [sic] or near the shoreline."⁶

Similarly, 360° Communications comments that "land-based cellular carriers abutting the Gulf of Mexico have been effectively precluded from serving the busy beachfront areas in their markets." It adds that "[s]ince May 1994, customers in these shoreline markets have been clamoring for better -- *and, in some cases any* -- cellular service in the heavily traveled beachfront highways, communities, and recreational areas."⁷

Like these commenters, GTE has serious beach coverage concerns. Recently, GTE performed an audit of customer service "trouble tickets" for its Florida markets.⁸ GTE found that between December of 1996 and July of 1997, nearly 25% of such tickets were related to the adequacy of cellular coverage on and near the beach. A review of these tickets reveals that customers are concerned about poor signal strength and dropped calls in areas adjacent to Gulf waters. Unfortunately, in many situations,

⁶ Radiofone Comments at 9-10. See *also* BellSouth Comments at 3.

⁷ 360° Communications Comments at 4-5 (emphasis in original). 360° Communications Comments attaches a sampling of customer letters requesting better shoreline coverage. 360° Communications Comments at Attachment B.

⁸ An Affidavit verifying GTE's trouble ticket analysis is attached as Exhibit A.

there is no corrective action GTE can take because of FCC rules requiring cellular providers to attenuate the signal at the beach.

In Texas, the current FCC rules cause slightly different problems. There, instead of customers complaining of dropped calls or weak signals, the presence of a stronger signal emanating from offshore cell sites of the Gulf provider – Coastel/Bachow – has led to customer calls setting up on the Gulf provider network. In fact, occurrences of roaming in the home market have become so prevalent in Texas that GTE has had to educate consumers to set their mobile phones to “home only” while communicating from locations on or near the beach.⁹ While this action has been marginally successful in avoiding the roaming problem, it does not serve the public interest.

These comments and customer information clearly show that the current Gulf of Mexico licensing and operational rules drastically impede cellular carriers' ability to provide strong reliable service on and near Gulf beaches.¹⁰ As GTE indicated in its initial comments, the Commission's proposal would perpetuate the beach service problem by allowing Gulf carriers to retain existing service areas that border the

⁹ Once their phones are set to “home only,” many customers experience dropped calls and weak signals due to the diminished signal strength near the beach.

¹⁰ GTE notes that the parties most concerned about the beach coverage issue are all B-side cellular carriers. This phenomenon is attributable to the fact the Coastel/Bachow, the B-side Gulf carrier, has been generally unwilling to negotiate reasonable extension agreements with land-based carriers. 360° Communications Comments at 5. See also SBMS Comments at 6. The A-side Gulf carrier, PetroCom, on the other hand has more freely allowed extensions into the Gulf, particularly in Florida where no oil platforms exist. These agreements allow Florida A-side carriers like AT&T Wireless to extend their signal into the Gulf and avoid the beach service problem confronting B-side carriers like 360° Communications and GTE. See AT&T Wireless Comments at 4-5 and Exhibits 1 and 2.

shoreline and by creating the possibility that entities other than the land-based carrier will become the licensee in unserved portions of the coastal waters. In each case, the land-based cellular provider would continue to be required to show 32 dBu coverage stopping at the shoreline, making beach service weak and unreliable.

GTE strongly urges the FCC to take action in this proceeding to resolve the beach service problem. The public interest will only be served if land-based cellular providers are able to increase signal strength in order to reliably serve all customers, including those using portable phones on and near the beach and inside beachfront buildings. GTE believes that its Gulf proposal is the only proposal set forth to date that would resolve this issue.

C. Boaters in Gulf Waters Share a Community of Interest With CMRS Customers in Adjacent Land Markets

Like GTE, a number of parties comment that Gulf boating traffic shares a community of interest with in-land boating and on-land cellular customers. Palmer Wireless, for example, states that "most of the cellular traffic in coastal waters is already generated by subscribers of land-based licensees."¹¹ It also notes that most registered boaters in coastal areas travel both intracoastal and coastal waters.¹²

BellSouth adds that "the majority of traffic in the Coastal Zone is local marine traffic, comprised of fishing and pleasure craft traveling to and from home ports located within the boundaries of land-based MSAs/RSAs. It would not be in the public interest to require these boaters to pay expensive roamer charges or to subscribe to the more

¹¹ Palmer Wireless Comments at 4.

¹² *Id.* at 8.

expensive service provided by Gulf carriers.”¹³ BellSouth argues, further, that licensing the coastal Gulf waters to the land-based provider will benefit consumers by lowering the price of service available in Gulf waters.¹⁴

AT&T Wireless comments that “[m]ost of the Gulf-based users of AT&T Florida’s cellular system are also subscribers of AT&T Florida’s system in the AT&T CGSAs. As such, these users are able to obtain cellular service in the Gulf without paying higher ‘roaming’ charges to Gulf of Mexico-based carriers.”¹⁵ Also, SBMS states that “[c]ustomers of SBMS have complained about exorbitant rates charged by GMSA carriers during recreational boating expeditions.”¹⁶

These parties’ comments bolster GTE’s contention that cellular customers in markets adjacent to the Gulf share a community of interest with customers in adjacent Gulf waters. The public interest will only be served by FCC rules enabling land-based providers to provide service in coastal Gulf waters.

D. Regulatory Parity Demands that the FCC Extend Land-Based Cellular Markets Into the Gulf

Yet another reason to extend land-based cellular licenses into the Gulf is to enable cellular providers to compete on relatively equal footing with PCS and other CMRS providers in coastal Gulf markets. As GTE suggested in its comments, PCS providers believe that their licenses entitle them to provide service to county or parish

¹³ BellSouth Comments at 8-9.

¹⁴ *Id.* at 10.

¹⁵ AT&T Wireless Comments, Declaration of John A. Dapper, at 2, ¶ 5.

¹⁶ SBMS Comments at 8.

line boundaries. These boundaries typically extend well into the Gulf of Mexico.¹⁷

While other Gulf-area commenters do not challenge this assertion, these entities strongly support Commission action that will enable regulatory parity among competing CMRS providers.

BellSouth, for example, comments that “[r]egulatory parity requires that similarly situated cellular licensees be afforded the same opportunity as PCS licensees to serve the Gulf. . . . As cellular and PCS are substantially similar services, cellular licensees in markets adjacent to the Gulf should be afforded the opportunity to serve customers within the Gulf.”¹⁸ BellSouth points out that without this ability, PCS licensees will have a substantial marketing advantage over cellular licensees in markets adjacent to the Gulf.¹⁹

Similarly, AT&T Wireless argues that the license area of land-based cellular providers should be extended into the Gulf, *inter alia*, so as to be consistent with FCC regulation of WCS and other potential competitors.²⁰ SBMS and Palmer Wireless also express regulatory parity concerns.²¹

GTE believes that in order to ensure complete regulatory parity, the FCC not only needs to allow cellular licensees on land to extend their markets into the Gulf, but

¹⁷ See, e.g., BellSouth Comments at 5; PrimeCo Comments at 4-6; Sprint Spectrum Comments at 2-4.

¹⁸ BellSouth Comments at 6.

¹⁹ *Id.*

²⁰ AT&T Wireless Comments at 5-6.

²¹ SBMS Comments at 10; Palmer Wireless Comments at 16.

also that the FCC must adopt GTE's proposal to clear incumbent Gulf-based carriers out of coastal waters. Absent such action, in markets where Gulf-based carriers have service contours near the shore, as Palmer Wireless argues, the presence of multiple cellular providers off-shore with the potential for roaming charges will render cellular a less attractive choice for subscribers who need service in coastal waters.²²

E. Parties Addressing the Merits of the Exclusive Zone Boundary Agree that the Boundary Should Be Set Further From the Shoreline

Most of the entities filing comments in this proceeding did not address the Commission's request for comments regarding how and where to draw the boundary between the Coastal and Exclusive Zones.²³ Other commenters merely agreed with the FCC's 12-mile proposal without addressing the underlying issues.²⁴

GTE, on the other hand, advocated drawing the boundary 25 miles from the shoreline for most of the Gulf, 50 miles for Florida below the Panhandle. GTE's comments were based on (1) information that regular coastal boating traffic travels up to 35 miles from the shore and that emergency calls from boaters regularly occur up to 35 miles from the shoreline; (2) information that land-based transmitters can provide

²² Palmer Wireless Comments at 16.

²³ As GTE noted in its comments, although it does not support creation of a Coastal Zone, the boundary drawing issue is relevant to the question of how far from shore to extend land-based carriers' market areas.

²⁴ See, e.g., AT&T Wireless Comments at 4; 360° Communications Comments at 6-7; MobilTel Comments at 2-3.

cellular service up to 50 miles from the shoreline; and (3) evidence that, below the Florida Panhandle, oil rigs are prohibited within 100 miles of the Florida coast.²⁵

Other than GTE, only Palmer Wireless and Radiofone answered the FCC's call for information regarding how and where to draw the boundaries.²⁶ Palmer Wireless recommends that the boundary be drawn 20 nautical miles from shore. It bases its comment on (1) evidence that its transmitters can provide reliable service 20-25 miles from the shore; (2) evidence that regular boating traffic for the size boats that tend to rely on cellular communications travels up to 20 miles offshore; and (3) the fact that no oil rigs exist off the Florida coast to provide an alternative source of cellular service.²⁷

Radiofone supports a boundary drawn at least 25 miles from the shore. It argues that land-based cell sites, depending on the type and design of the equipment and the propagation model used, can provide reliable cellular service at least 25 nautical miles into the Gulf.²⁸

These parties' comments strongly suggest that the Commission reconsider its proposal to start the GMSA Exclusive Zone 12 miles from the shoreline. These arguments provide additional support for GTE's request that the boundary be drawn at least 25 miles from the shore, 50 miles for Florida below the Panhandle.

²⁵ GTE Comments at 8-11.

²⁶ SBMS comments that a uniform boundary would be best, but does not address the issues surrounding where that boundary should be drawn. SBMS Comments at 8-9. Also, although it does not specifically address the boundary drawing issues, AllTel notes that Florida prohibits offshore drilling. AllTel Comments at 2-3.

²⁷ Palmer Wireless Comments at 6-9

²⁸ Radiofone Comments at 4-5.

F. GTE's Proposal Regarding the Treatment of Incumbents Is Consistent with the Interests of Other Cellular Providers

At first glance, it appears as though most parties' comments on the issue of treatment of incumbents conflict with GTE's proposal to clear incumbents out of coastal Gulf waters. Thus, for example, SBMS argues that its extension areas are significant to service."²⁹ Similarly AT&T Wireless supports "complete grandfathering of existing sites that have been authorized within the Coastal Zone."³⁰

However, on closer inspection, GTE believes that its proposal is consistent with the interests these parties' comments are seeking to protect. GTE believes that parties asking the FCC to allow carriers to keep existing extension areas into the Gulf were acting out of an interest to retain the service areas they have been able to obtain into the Gulf.³¹ GTE has some extension areas and understands the concerns expressed by these commenters. As noted above, these extension areas allow land-based cellular providers to provide an important service to cellular customers in the Gulf. In addition, boosting power from land-based transmitters to provide service into the Gulf enables such carriers to better provide service to portables on the beach and in nearby buildings.

²⁹ SBMS Comments at 4.

³⁰ AT&T Wireless Comments at 10. As noted above, AT&T Wireless is an A-side licensee in Florida and has been able to obtain extensions into the Gulf more readily than B-side licensees. See note 10, *supra*.

³¹ See, e.g., Vanguard Cellular Comments at 3-4;

GTE's proposal would enable land-based cellular providers to keep extension areas – provided that such areas fall within Gulf waters adjacent to the land market. GTE therefore believes that its proposal is consistent with the concerns expressed by the majority of cellular providers.

III. The Gulf-Based Carrier Proposals Would Exacerbate the Current Gulf Problems and Would Be Contrary to the Public Interest

Standing alone on the opposite side of these issues are the two incumbent Gulf-based cellular providers, Petroleum Communications, Inc. ("PetroCom") and Bachow/Coastel, L.L.C. ("Coastel"). PetroCom proposes that the Gulf be divided into Western and Eastern Coastal Zones, each extending 12 miles from the shore and the GMSA Exclusive Zone. Gulf carriers would have exclusive rights within the Exclusive Zone and would retain existing service area boundaries within the Western Coastal Zone. PetroCom, however, would get an exclusive three-year build-out period in the Eastern Coastal Zone. GMSA licensees would have the right to place transmitters on land provided that GMSA licensee signal is configured so as not to capture roaming traffic in served areas. Finally GMSA carriers would have 18 months to fill out their coverage areas before the FCC accepts Phase II license application for the Gulf, 36 months for the A-block in the Eastern Gulf.³²

Coastel takes a more radical approach. It argues that in order to abide by the court's mandate in *PetroCom v. FCC*, the FCC must maintain its current GMSA operational and licensing rules. It contends that if the FCC adopts the Coastal Zone

³² PetroCom also seeks interconnection, E-911, and universal service relief. GTE believes those issues should be considered, if at all, in a more appropriate proceeding.

proposal, as oil platforms move, land-based carriers will gradually annex all of the Coastal Zone. It also asks the FCC to permit land-based transmitters, apparently unconditionally.

GTE opposes both sets of comments. First, both proposals ask the FCC to allow land-based transmitters without abiding by the Commission's service area boundary ("SAB") extension rules.³³ Second, both proposals put the interest of the GMSA carriers ahead of the public interest. Coastel's comments, in particular, chastise the FCC's proposal for putting the public interest ahead of what is "fair" to the GMSA cellular providers.

A. Land-Based Transmitters Should Not Be Allowed Unless, at Minimum, the Service Area Boundary Extension Rules Are Met

Both PetroCom and Coastel propose to provide more ubiquitous service in coastal waters by placing transmitters on land. Both, therefore, ask the Commission to eliminate the requirement that Gulf providers obtain a land-based licensee's consent prior to placing facilities on land.³⁴ Moreover, both entities ask the Commission to do away with the SAB extension rules with regard to land-based transmitters. PetroCom asks that land-based transmitters be allowed provided that the signal strength of the GMSA licensee's transmitter over served area is at all times adjusted such that the GMSA carrier does not capture any roaming or subscriber traffic of the incumbent land-based carrier.³⁵ Coastel, argues that applying the SAB extension rules to Gulf-based

³³ 47 C.F.R. § 22.912

³⁴ PetroCom Comments at 11-14; Coastel Comments at 24-29.

³⁵ PetroCom Comments at 12-13.

carriers is not fair. Apparently, it believes that land-based transmitters should be allowed regardless of the effect on land-based carrier cellular systems and customers.³⁶

Both these positions are untenable. Several parties commented that allowing land-based transmitters would create irreconcilable conflicts between land- and Gulf-based cellular networks.³⁷ AT&T Wireless, for example, cited a previous FCC decision finding that "land transmitters could not be 'reengineered' in the Gulf area to avoid significant incursions over land."³⁸ Similarly, MobilTel argues that "[t]he construction of separate land-based systems to serve the coastal waters would cause substantial interference to existing land-based carriers."³⁹ Indeed, MobilTel argues that even application of the Commission's SAB extension rules would not adequately protect land-based carriers.⁴⁰

GTE notes, as an initial matter, that adopting GTE's proposal for the Gulf would eliminate the land-based transmitter issue by moving the border between land-based providers and Gulf providers 25 to 50 miles out into the Gulf. Moving the boundary would serve the public interest by ensuring that incidences of conflict between the Gulf and land-based providers affect fewer customers.

³⁶ Coastel Comments at 24-29.

³⁷ See, e.g., AT&T Wireless Comments at 6-9; MobilTel Comments at 4-6; Palmer Wireless Comments at 12; 360° Communications at 8-10; BellSouth Comments at 13; SBMS Comments at 5-7; Vanguard Cellular Comments at 6-7.

³⁸ AT&T Wireless Comments at 6.

³⁹ MobilTel Comments at 4.

⁴⁰ *Id.* at 6.

However, if the FCC perpetuates the conflict by allowing Gulf-based providers to abut land markets, GTE agrees with the comments cited above. These comments demonstrate that, at minimum, the FCC's SAB extension rules must be retained and adhered to prior to placement of facility on land by a Gulf-based provider.

Turning to the specific land-based transmitter proposals, Coastel's proposal must be rejected because it does not even purport to deal with the issue of interference to land-based provider networks. PetroCom's proposal must also be rejected. Currently, FCC rules require that water-based signals stop at the shore and land-based signals not extend beyond the shore. Yet, despite these rules, as GTE and others have indicated, there are numerous situations where the water-based signal is the strongest signal on land. Thus, the current situation on Gulf beaches provides fairly conclusive evidence that PetroCom's proposal to allow land-based transmitters conditioned on the relative power level of the signal emitted will not work. In addition, PetroCom's proposal only addresses capture of subscriber and roamer traffic. It does not address the interference with land-based cellular networks that would inevitably result if Gulf carriers placed transmitters on land. FCC rules, including the SAB extension rule, were designed to protect against both capture of subscriber traffic and harmful interference.⁴¹ Eliminating the SAB extension rule would deny land-based providers at least part of that protection.

⁴¹ 47 C.F.R. § 22.911(d) (stating that "[w]ithin the CGSA . . . cellular systems are entitled to protection from co-channel and first-adjacent channel interference and from capture of subscriber traffic by adjacent systems on the same channel block").

B. The Gulf-Based Cellular Provider Proposals Would Not Serve the Public Interest

In the *Second NPRM*, the FCC tentatively concluded that the public interest will be served by adopting Gulf of Mexico policies that ensure wide-spread, reliable coverage along the shoreline.⁴² In addition, GTE and other commenters have demonstrated how the public interest also demands improved coverage along Gulf of Mexico beaches and the ability to carry land-based cellular service into adjacent Gulf waters. The comments submitted to date provide substantial evidence that customers want reliable Gulf-area cellular service at reasonable prices, without having to pay unexpected roaming charges and without having to subscribe to multiple cellular service providers. Here and in its initial comments, GTE has demonstrated that allowing the existing Gulf service providers to expand their current footprint within coastal Gulf waters and onto Gulf beaches will not advance these public interest concerns. Indeed, GTE has shown that the public interest will not be served by allowing Gulf-based carriers to retain existing coverage in coastal waters.

In the face of this overwhelming public interest evidence, PetroCom and Coastel ask the FCC to preserve the status quo (in PetroCom's case "only" for 18 months to 3 years), while allowing the Gulf carriers to place transmitters on land in order to expand their Gulf coverage. Remarkably, in support of its position, Coastel argues that the court's mandate in *PetroCom v. FCC*, requires the FCC to base its Gulf rules entirely on whether it is fair to require Gulf-based providers to relinquish part of their markets in

⁴² *Second NPRM* at 14 (¶ 27).

view of the unique obstacles they face in providing cellular service in the Gulf.⁴³

Coastel admonishes parties for using this proceeding as an attempt to revisit the issue of how best to provide cellular service in the Gulf. It states, that "the issue is not whether a Gulf-based or land-based cellular is best suited to provide cellular service in any part of the Gulf or whether one or the other would provide more or less expensive cellular service."⁴⁴ Thus, Coastel appears to take the position that fairness takes precedence over the public interest.

Contrary to Coastel's ridiculous assertion, the *PetroCom* court did not instruct the FCC to ignore the public interest. Rather, the court instructed the FCC to "develop a [more] convincing rationale for applying a uniform standard to water-based and land-based licensees."⁴⁵ Indeed, the statutory sections empowering the FCC to regulate radio-based services provide that consideration of the public interest is not only allowable, but required.⁴⁶

The Gulf carrier proposals would negatively impact the public interest in a number of ways, including: (1) continuing to limit cellular coverage by land-based licensees on and near Gulf beaches; (2) continuing customer confusion and outrage by creating even more circumstances under which customers will be assessed roaming charges in their home markets; (3) maintaining today's system of spotty coverage in

⁴³ Coastel Comments at 13.

⁴⁴ *Id.* at 14.

⁴⁵ *PetroCom v. FCC*, 22 F.3d at 1173.

⁴⁶ *See, e.g.*, 47 U.S.C. § 303.

coastal Gulf waters; (4) requiring cellular customers either to pay roaming charges or to subscribe to a separate, more expensive, cellular service when venturing into Gulf waters; and (5) limiting cellular service as a viable alternative for customers that want service they can port between land and Gulf water locations.

GTE believes that the FCC's proposal, modified as GTE and others suggest, adequately balances the need for GMSA carriers to have a flexible service area and the need to provide customers reliable cellular service on Gulf beaches and in coastal waters. Because the Gulf carrier proposals largely ignore this balance and the public interest, these proposals must be rejected.

IV. Conclusion

GTE has demonstrated in this proceeding how the public interest would be better served by abandoning the "Coastal Zone" concept in favor of extending land-based cellular markets 25 or 50 miles into the Gulf. Customer information obtained by GTE and the comments of the majority of entities addressing the specifics of the proposed cellular rules provide additional support for GTE's proposal. Because the proposals of the Gulf-based providers largely ignore the public interest, these proposals should be rejected.

Respectfully submitted,

GTE Service Corporation and its telephone
and wireless companies

By Andre J. Lachance

Andre J. Lachance
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5276

August 4, 1997

Their Attorney

EXHIBIT A